

12. TITLE VI

BASIC REQUIREMENT

The grantee must ensure that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participating in, or denied the benefits of, or be subject to discrimination under any program, or activity receiving federal financial assistance. The grantee must ensure that federally supported transit services and related benefits are distributed in an equitable manner.

AREAS TO BE EXAMINED

1. *Responsibility for Title VI Coordination*

- a. Certification of non-discrimination (Annual Certifications and Assurances)
- b. Implementation of Title VI provisions

2. *Approved Title VI Program*

- a. General reporting requirements (all grantees)
- b. Program-specific reporting (areas with population 200,000 and over)

3. *Title VI Public Information and Complaints*

- a. Public Notification of Rights
- b. Complaint Procedures
- c. List of Title VI complaints
- d. List of Title VI lawsuits

4. *Title VI Monitoring Procedures*

- a. Limited English Proficiency (LEP)
- b. Environmental Justice Assessment
- c. Level and quality of service

REFERENCES

1. [FTA C 4702.1A](#), "Title VI and Title VI-Dependent Guidelines for Federal Transit Administration Recipients."
2. [49 CFR Part 21](#), "Nondiscrimination in Federally-assisted Programs of the Department of Transportation--Effectuation of Title VI of the Civil Rights Act of 1964."
3. [Federal Register: April 15, 1997](#) (Volume 62, Number 72, pp. 18377-18381) "Department of Transportation (DOT) Order To Address Environmental Justice in Minority Populations and Low-Income Populations."
4. [Executive Order 13166](#): "Improving Access to Services for Persons with Limited English Proficiency."
5. [Federal Register: December 14, 2005](#) (Volume 70, Number 239, pp. 74087-74100) "DOT Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficiency (LEP) Persons."

QUESTIONS FOR THE REVIEW

1. *Has the grantee had, or been informed that it will have, a Title VI Compliance Review by FTA's Office of Civil Rights? If yes, when was/will be the site visit?*

EXPLANATION

The U.S. Department of Transportation's Title VI Regulations at 49 CFR §21.11(a) state that "the Secretary shall from time to time review the practices of recipients to determine whether they are complying with this part."

Consistent with this provision, FTA conducts periodic post-award Title VI compliance reviews as described in Chapter VIII of FTA C 4702.1A. These reviews may be in addition to the Triennial Review and may be conducted either as a desk audit or at an on-site visit. They may cover all or a portion of the recipient's compliance with the requirements of FTA C 4702.1A. Such reviews will be conducted at the discretion of FTA and their scope is defined on a case-by-case basis.

In general, compliance reviews assess the recipient or subrecipient's efforts to meet the requirements under the "general requirements and guidelines" (Chapter IV) and program specific requirements and guidelines (Chapters V, VI, and VII) of FTA C 4702.1A. Compliance reviews may cover other information that is necessary and appropriate to make a determination of a grantee's compliance with Title VI.

FTA summarizes the results of the review in a draft report, which includes findings of deficiency, findings of no deficiency, and advisory comments, as appropriate. The recipient or subrecipient has the opportunity to review and respond to the draft report. After FTA has received and reviewed the agency's response, it will publish a final report that will be provided to the recipient and subrecipient and will also be subject to requests from the public under the Freedom of Information Act (FOIA). A list of final Title VI compliance reports can be found at http://www.fta.dot.gov/civilrights/title6/civil_rights_5463.html.

If findings of deficiency remain in the final report, the recipient or subrecipient will be required to take corrective action, develop a timeline for compliance, and report on its progress to FTA on a quarterly basis. Once FTA determines that the recipient or subrecipient has satisfactorily responded to the review's findings, it will inform the agency that the review process has ended and release it from further progress reporting in response to the review.

Compliance reviews may be followed up with additional reviews as necessary.

If a Title VI Compliance Review has been conducted in the past two fiscal years or if one is scheduled for the current fiscal year, triennial reviewers should note on the worksheets when the compliance review was/will be performed. If findings from the Title VI review are still being monitored, or if the Title VI review is pending, the triennial review will not include questions on Title VI.

REASON FOR THE QUESTION

49 CFR 21.11(a)
FTA C 4702.1A, Ch.VIII
Input to triennial review

SOURCES OF INFORMATION

The reviewer should contact FTA's Office of Civil Rights in headquarters and/or the regional civil rights officer (CRO) to determine if a Title VI Compliance Review of the grantee is scheduled or has been conducted during the review period. The Regional Oversight Resource Plan also may have a schedule of Title VI reviews to be held during the year.

DETERMINATION

None

SUGGESTED CORRECTIVE ACTION

None

2. *Who is responsible for the coordination of Title VI Program/ Environmental Justice Assessments? Who prepares the Title VI Program submissions and updates for FTA?*

EXPLANATION

While neither the DOT Title VI regulations nor FTA's C 4702.1A require that recipients appoint a person(s) to coordinate Title VI activities, many recipients have a person or group of people to perform this task and these individuals can assist the reviewer in answering the subsequent questions of this section.

REASON FOR THE QUESTION

General information

SOURCES OF INFORMATION

The Title VI Program submissions to the CRO may include the name of the person(s) responsible for coordinating and implementing the Title VI Program/

Environmental Justice Assessments. This information should be confirmed and/or updated at the site visit.

DETERMINATION

None

SUGGESTED CORRECTIVE ACTION

None

3. *Has the grantee's Title VI Program been approved by FTA? If yes, when does the approval expire? If the program has expired, please provide an explanation.*

EXPLANATION

The U.S. Department of Transportation's Title VI regulations at 49 CFR 21.9(b) state that "each recipient shall keep such records and submit to the Secretary timely, complete, and accurate compliance reports at such times and in such form and containing such information as the Secretary may determine to be necessary to enable him to ascertain whether the recipient has complied or is complying with this part."

Consistent with this provision, FTA requires that its direct recipients submit a compliance report (aka a "Title VI Program") to the CRO in their region once every three years, per the instructions in Chapter II section 4 of FTA C 4702.1A. All direct recipients are required to submit a Title VI program that documents their compliance with Chapter IV of FTA C 4702.1A. FTA recipients under Section 5307 of the Federal Transit Laws who provide service to geographic areas of 200,000 persons or greater need to submit a Title VI program that documents their compliance with Chapter IV and Chapter V of FTA C 4702.1A.

REASON FOR THE QUESTION

[49 CFR 21.9\(b\)](#)

[FTA C 4702.1A](#), Ch. II, Section 4; Ch. IV, Section 7; Ch. V, Section 6; Appendices A and B

SOURCES OF INFORMATION

The CRO's files should include a copy of the most recently submitted program. There should be correspondence indicating when it was approved by FTA and when the approval expires.

DETERMINATION

The grantee is not deficient if its current Title VI Program has been submitted and approved or if the grantee has submitted its program to FTA and is awaiting a response. The grantee is deficient if the Title VI Program has expired and the grantee has not made a submission or requested and received an extension for submitting a new program or program update.

SUGGESTED CORRECTIVE ACTION

The grantee needs to submit the required Title VI Program to the CRO.

4. *Has FTA placed any conditions on the Title VI approval? If so, what is the status of the grantee's follow-up on corrective actions?*

EXPLANATION

Consistent with The U.S. Department of Transportation's Title VI regulations at 49 CFR 21.9(b), Chapter II section 4 of FTA C 4702.1A states that "if any of the required information is not included in the recipient's Title VI compliance report, or if the information submitted is not consistent with the guidance provided in the relevant section of this circular, than FTA may determine that the report is deficient and may condition or delay continued Federal financial assistance to the recipient until FTA is satisfied that the recipient has taken corrective action."

REASON FOR THE QUESTION

[FTA C 4702.1A](#), Ch. II, Section 4.a

SOURCES OF INFORMATION

The CRO's files should include documentation of any corrective action or additional submittal that is required of grantee. During the site visit, discuss the status of any outstanding items that require corrective action.

DETERMINATION

The grantee is not deficient if it has had no conditions placed on its Title VI program, or if the grantee has completed all corrective actions or made appropriate submittals to its Title VI program at the time of the review. The grantee is deficient if it has overdue corrective actions at the time of the review. .

SUGGESTED CORRECTIVE ACTION

The grantee should submit any overdue clarifications or further corrective actions to the CRO, per the timeline determined by the CRO.

5. *Does the grantee notify its customers of their rights under Title VI? How does the grantee provide such notification to the public?*

EXPLANATION

The U.S. DOT Title VI Regulations at 49 CFR §21.9(d) state that, "each recipient shall make available to participants, beneficiaries, and other interested persons such information regarding the provisions of this part and its applicability to the program for which the recipient receives Federal

financial assistance, and make such information available to them in such a manner as the Secretary finds necessary to apprise such persons of the protections against discrimination assured them by the Act and this part.”

Consistent with this provision, FTA has advised its grantees to notify beneficiaries of protection under Title VI. Chapter IV section 5 of FTA C 4702.1A states that, “recipients and subrecipients shall provide information to the public regarding their Title VI obligations and apprise members of the public of the protections against discrimination afforded to them by Title VI. Recipients and subrecipients that provide transit service shall disseminate this information to the public through measures that can include, but shall not be limited to a posting on the agency’s Web site.”

FTA C 4702.1A, Chapter IV section 5a states that the contents of the notice shall include: “(1) a statement that the agency operates programs without regard to race, color, and national origin; (2) a description of the procedures that members of the public should follow in order to request additional information on the recipient’s or subrecipient’s nondiscrimination obligations; and (3) a description of the procedures that members of the public should follow in order to file a discrimination complaint against the recipient or subrecipient.” FTA C 4702.1A, Chapter IV section 5b provides guidance on how to disseminate this notification.

Grantees need not necessarily refer to “Title VI of the Civil Rights Act of 1964” in their notification to the public, since most of the public is not aware of this provision. Rather, grantees can fulfill this requirement by notifying the public that they are committed to providing non-discriminatory service and informing customers how to request more information and how to file a discrimination complaint.

REASON FOR THE QUESTION

[49 CFR 21.9\(d\)](#)

[FTA C 4702.1A](#), Ch. IV, Section 5

SOURCES OF INFORMATION

Grantee staff should be able to provide reviewers with a copy of the materials that the grantee uses to inform beneficiaries of their rights under Title VI and a description of how these materials are disseminated.

DETERMINATION

The grantee is not deficient if it provides the reviewers with the materials that it uses to inform beneficiaries of their rights under Title VI and describes how these materials are disseminated.

The grantee is deficient if it has not developed a notification to the public, or if it has developed but not disseminated this notification, or if its only means of

dissemination consists of publishing the notice on the agency’s website.

SUGGESTED CORRECTIVE ACTION

The grantee should submit to the CRO a plan and timeline for developing and disseminating a notification to the public of their rights under Title VI, as well as a copy of the notification that will be disseminated. Grantees can find examples of brochures published by the U.S. Department of Justice that notify the public of their rights under Title VI at <http://www.usdoj.gov/crt/cor/pubs.htm>.

6. *Does the grantee have procedures for investigating and tracking Title VI complaints filed with the grantee and is this information made available to the public upon request?*

EXPLANATION

FTA requires that its grantees maintain, as part of their records, a description of the process that they use to investigate Title VI complaints filed against the agency. FTA C 4702.1A states that, “recipients and subrecipients shall develop procedures for investigating and tracking Title VI complaints filed against them and make their procedures for filing a complaint available to the public upon request.”

Grantees do not need to develop separate procedures for investigating and resolving Title VI complaints beyond what procedures have already been established to respond to complaints of discrimination filed on bases not covered under Title VI, or procedures to respond to non-civil rights related complaints. Most grantees have a well-established process and schedule for receiving and acknowledging complaints, determining whether it is appropriate to investigate the complaint, conducting investigations, and issuing determinations. This process can be applied to Title VI complaints.

However, the grantee should have a system in place whereby it can identify which, if any, of its complaints have been filed because the complainant believes that he or she was denied the benefits of, excluded from participation in, or subject to discrimination on the grounds of race, color, or national origin under any program or activity offered by the recipient. Although the complainant may not refer to Title VI in the complaint to the grantee, the grantee should be able to identify and classify this type of complaint as a Title VI complaint.

REASON FOR THE QUESTION

[49 CFR 21.9\(b\)](#)

[FTA C 4702.1A](#), Ch. IV, Section 2

SOURCES OF INFORMATION

The grantee should be able to provide the reviewer with a written copy of its complaint procedures. The reviewer should ask the grantee whether these procedures would apply to complaints filed under Title VI or whether the grantee has separate Title VI complaint procedures. The reviewer should also ask the grantee if it has a process for classifying complaints of discrimination under Title VI.

DETERMINATION

The grantee is not deficient if it provides information on its procedures for investigating and tracking Title VI complaints.

The grantee is deficient if it cannot provide information on how it investigates Title VI complaints and/or if the grantee cannot demonstrate that it has a process for tracking discrimination complaints on the basis of race, color, or national origin.

SUGGESTED CORRECTIVE ACTION

The grantee should submit a written document that describes its procedures for investigating and tracking Title VI complaints to the CRO.

7. *Does the grantee maintain a record of any Title VI investigations, complaints and lawsuits filed with the agency?*

EXPLANATION

Chapter IV section 3 of FTA C 4702.1A requires that grantees “prepare and maintain a list of any active investigations conducted by entities other than FTA, lawsuits, or complaints naming the recipient and/or subrecipient that allege discrimination on the basis of race, color, or national origin. This list shall include the date that the investigation, complaint, or lawsuit was filed; a summary of the allegation(s); the status of the investigation, lawsuit, or complaint; and actions taken by the recipient or subrecipient in response to the investigation, lawsuit, or complaint.”

REASON FOR THE QUESTION

49 CFR 21.9(b)

FTA C 4702.1A, Ch. IV, Section 3

SOURCES OF INFORMATION

The grantee should be able to provide the reviewer with a written record of any active Title VI investigations, lawsuits, or complaints. This list does not need to include those investigations, lawsuits, or complaints that have been filed in the past but have been previously closed. Note that if a grantee is able to track complaints as “Title VI complaints” per the requirement in Chapter IV section 2 of FTA C 4702.1A, it should be able to provide a list of any such complaints that have been filed with the grantee. However, if the grantee has not demonstrated that it

can classify those complaints that allege discrimination on the basis of race, color, and national origin as Title VI complaints, then the grantee will not likely be able to provide the reviewer with such a list.

DETERMINATION

The grantee is not deficient if it provides a list of active Title VI investigations, lawsuits, or complaints, or if the grantee indicates that no such items have been filed with the agency.

The grantee is deficient if it cannot track Title VI complaints (and therefore cannot provide a list of any such complaints). The grantee is also deficient if FTA has evidence that an investigation(s), complaint(s), or lawsuit(s) has been filed with the agency but the agency does not list the specific item(s) in its record.

SUGGESTED CORRECTIVE ACTION

The grantee should submit to the CRO its procedure for tracking Title VI complaints and/or a list of Title VI complaints, lawsuits, or investigations that were not previously identified.

8. *Has the recipient taken responsible steps to ensure meaningful access to the benefits, services, information, and other important portions of their programs and activities for individuals who are limited English proficient (LEP)?*

EXPLANATION

Executive Order 13166, “Improving Access to Services for Persons with Limited English Proficiency,” reprinted at 65 FR 50121 (August 16, 2000), directs each Federal agency to examine the services it provides and develop and implement a system by which LEP persons can meaningfully access those services. Federal agencies were instructed to publish guidance for their respective recipients in order to assist them with their obligations to LEP persons under Title VI. The Executive Order states that recipients must take reasonable steps to ensure meaningful access to their programs and activities by LEP persons.

The U.S. DOT published revised guidance for its recipients on December 14, 2005 (Federal Register, vol. 70, no. 239, pp. 74087–74100, December 14, 2005). This document states that Title VI and its implementing regulations require that DOT recipients take responsible steps to ensure meaningful access to the benefits, services, information, and other important portions of their programs and activities for individuals who are Limited English Proficient (LEP) and that recipients should use the DOT LEP Guidance to determine how best to comply.

The DOT LEP Guidance advises grantees to determine what steps are necessary to provide “meaningful access” on the basis of four factors: (1) the number and proportion of LEP persons served or encountered in the eligible service population; (2) the frequency with which LEP individuals come into contact with the program, activity, or service; (3) the nature and importance of the program, activity, or service provided by the program; and (4) the resources available to the recipient and costs.

The DOT LEP Guidance also recommends that grantees develop an implementation plan to address the identified needs of the population it serves. Such a plan should have five components: (1) identifying LEP individuals who need language assistance; (2) developing language assistance measures; (3) training staff; (4) providing notice to LEP persons; and (5) monitoring and updating the plan.

Chapter IV section 4 of FTA C 4702.1A repeats the language in the DOT LEP Guidelines that Title VI and its implementing regulations require that recipients take responsible steps to ensure meaningful access to the benefits, services, information, and other important portions of their programs and activities for individuals who are limited English proficient (LEP).

Chapter IV section 4a states that “recipients and subrecipients can ensure that LEP persons have meaningful access to their programs and activities by developing and carrying out a language implementation plan pursuant to the recommendations in Section VII of the DOT LEP Guidance. Certain recipients or subrecipients, such as those serving very few LEP persons or those with very limited resources may choose not to develop a written LEP plan. However the absence of a written LEP plan does not obviate the underlying obligation to ensure meaningful access by LEP persons to a recipient’s program or activities. Recipients or subrecipients electing not to prepare a written language implementation plan should consider other ways to reasonably provide meaningful access.”

REASON FOR THE QUESTION

[Executive Order 13166](#)

[DOT LEP Guidance](#)

[FTA C 4702.1A](#), Ch. IV, Section 4

SOURCES OF INFORMATION

Grantee staff should be able to inform reviewers of whether their agency has analyzed the four factors presented in the DOT LEP Guidance and whether the agency has developed an implementation plan on language assistance. If these steps have been taken, reviewers should ask for supporting documentation. Grantee staff should also be able to provide examples of language assistance measures they have implemented.

DETERMINATION

The grantee is not deficient if it has conducted the four-factor analysis and has developed an implementation plan to address the identified needs of the population it serves.

The grantee is also not deficient if it has analyzed how the four factors in the DOT LEP Guidance apply to its programs and services and has elected not to develop a language implementation plan, but can nonetheless demonstrate that it has taken responsible steps to provide meaningful access to LEP persons on the basis of its four-factor analysis. Such steps can include the following actions:

- training bilingual staff to act as interpreters and translators
- using telephonic and video conferencing interpretation services
- formalizing use of qualified community volunteers
- using centralized interpreter and translator services
- hiring staff interpreters
- using symbolic signs (pictographs)
- translating into languages other than English vital written materials, such as applications or instructions on how to participate in a recipient’s program, signs in bus and train stations, notice of public hearings and other community outreach, and notices advising LEP persons of free language assistance

If a grantee can demonstrate it has taken responsible steps to provide access but has elected not to develop a written implementation plan, reviewers should recommend (although it is not a finding) that they consider developing such a plan in the future, as it is likely to help the recipient improve the quality and reliability of its existing language assistance measures.

The grantee is deficient if the reviewer determines that it has not conducted an analysis of how the four factors in the DOT LEP Guidance apply to the grantee’s programs and activities. Even if the grantee has taken specific actions, such as those listed above, to provide language assistance, FTA and the grantee cannot determine whether or not such actions constitute “meaningful access” without information on the number and proportion of LEP persons in the recipient’s service area, which programs and activities are most frequently used by LEP persons, and which programs and activities are most important to LEP persons.

SUGGESTED CORRECTIVE ACTION

The grantee should submit to the CRO a document that describes its plans for conducting the four-factor analysis and provides a timeline for when the analysis will be completed. Once the analysis has been completed, the grantee should submit the analysis

along with a list of language assistance it has provided or intends to provide and a timeline for providing this assistance.

9. *Has the grantee sought out and considered the viewpoints of minority, low-income, and LEP populations in the course of conducting public outreach and involvement activities?*

EXPLANATION

One of the principles of environmental justice is to ensure the full and fair participation by all potentially affected communities in the transportation decision-making process. DOT Order 5610.2 states that "...Procedures shall be established or expanded, as necessary, to provide meaningful opportunities for public involvement by members of minority populations and low-income populations during the planning and development of programs, policies, and activities (including the identification of potential effects, alternatives, and mitigation measures)."

Consistent with this provision, FTA has issued guidance to its grantees on promoting inclusive public participation (see Chapter IV section 9 of FTA C 4702.1A). This guidance states "recipients and subrecipients should seek out and consider the viewpoints of minority, low-income, and LEP populations in the course of conducting public outreach and involvement activities. An agency's public participation strategy shall offer early and continuous opportunities for the public to be involved in the identification of social, economic, and environmental impacts of proposed transportation decisions."

Chapter IV section 9a of FTA C 4702.1A discusses some effective practices to promote inclusive public involvement and lists some specific practices, including: (1) coordinating with individuals, institutions, or organizations and implementing community-based public involvement strategies to reach out to members in the affected minority and/or low-income communities; (2) providing opportunities for public participation through means other than written communication, such as personal interviews or use of audio or video recording devices to capture oral comments; (3) using locations, facilities, and meeting times that are convenient and accessible to low-income and minority communities; (4) using different meeting sizes or formats, or varying the type and number of news media used to announce public participation opportunities, so that communications are tailored to the particular community or population; and (5) implementing DOT's policy guidance concerning recipients' responsibilities to LEP persons to overcome barriers to public participation.

REASON FOR THE QUESTION

EO 12898, DOT Order 5610.2

FTA C 4702.1A, Ch. IV, Section 9

SOURCES OF INFORMATION

Grantee staff should be able to provide a summary of public involvement measures taken since the date of the last Triennial Review and a description of the methods used to seek out and consider the viewpoints of minority, low-income, and LEP populations in the course of conducting these public outreach and involvement activities.

DETERMINATION

The grantee is not deficient if it can demonstrate that it implemented one or more of the effective practices listed in Chapter IV section 9a of FTA C 4702.1A. The grantee is also not deficient if it can demonstrate that it implemented public involvement strategies other than those listed at Chapter IV section 9a and the reviewer determines that these strategies are consistent with the guidance at Chapter IV section 9.

The grantee is deficient if it indicates that it conducted public outreach since the last Triennial Review but cannot demonstrate that it implemented either any of the public involvement strategies listed in Chapter IV section 9a or any other strategies that the reviewer determines are consistent with Chapter IV section 9.

SUGGESTED CORRECTIVE ACTION

The grantee should provide to the CRO a document that describes the measures it will take to promote inclusive public participation in future public involvement activities, as well as a timeline for implementing the proposed procedures.

10. *Has the grantee incorporated an environmental justice analysis into its National Environmental Policy Act (NEPA) documentation of construction projects?*

EXPLANATION

The U.S. DOT Title VI Regulations at 49 CFR §21.5(b)(3) state that, "in determining the site or location of facilities, a recipient or applicant may not make selections with the purpose or effect of excluding persons from, denying them the benefits of, or subjecting them to discrimination under any program to which this regulation applies, on the grounds of race, color or national origin...."

The authority of Federal Title VI regulations was reaffirmed in Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," which addresses fair treatment of all people regardless of race, color, ethnicity, or income with respect to the

benefits and burdens of environmentally related programs, policies, and activities. The Executive Order states that each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations in the United States.

The U.S. Order on Environmental Justice (Order 5610.2) sets forth a process by which DOT and its Operating Administrations will integrate the goals of the Executive Order into their operations. This Order states that, "It is the policy of DOT to promote the principles of environmental justice (as embodied in the Executive Order) through the incorporation of those principles in all DOT programs, policies, and activities. This will be done by fully considering environmental justice principles throughout planning and decision-making processes in the development of programs, policies, and activities, using the principles of the National Environmental Policy Act of 1969 (NEPA), Title VI of the Civil Rights Act of 1964 (Title VI), the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, (URA), the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) and other DOT statutes, regulations and guidance that address or affect infrastructure planning and decisionmaking; social, economic, or environmental matters; public health; and public involvement." (Order 5610.2 section 4a).

Order 5610.2 also states, "planning and programming activities that have the potential to have a disproportionately high and adverse effect on human health or the environment shall include explicit consideration of the effects on minority populations and low-income populations." (Order 5610.2 section 5(b)(1)).

Consistent with Order 5610.2, FTA's C 4702.1A advises grantees to integrate an environmental justice analysis into NEPA documentation of construction projects (see Chapter IV section 8 of FTA C 4702.1A). This provision states that Environmental Justice information should be included in applications for a documented categorical exclusion (CE), Environmental Assessments (EA) and Environmental Impact Statements (EIS).

Chapter IV section 8a recommends that recipients preparing an EA or EIS include:

- a description of the low-income and minority population within the study affected by the project, and a discussion of the method used to identify this population;
- a discussion of all adverse effects of the project both during and after construction that would

affect the identified minority and low-income population;

- a discussion of all positive effects that would affect the identified minority and low-income population; a description of all mitigation and environmental enhancement actions incorporated into the project to address the adverse effects;
- a discussion of the remaining effects, if any, and why further mitigation is not proposed; and
- a comparison of mitigation and environmental enhancement actions that affect predominantly low-income and minority areas with mitigation implemented in predominantly non-minority and non-low income areas.

REASON FOR THE QUESTION

[49 CFR 21.5\(b\)\(3\)](#)

[EO 12898, DOT Order 5610.2](#)

[FTA C 4702.1A](#), Ch. IV, Section 8

SOURCES OF INFORMATION

FTA regional staff and grantee staff should be able to provide reviewers with copies of any NEPA documentation submitted by the recipient to FTA since the date of the last Triennial Review.

DETERMINATION

The grantee is not deficient if it has not submitted any NEPA documentation to FTA since the date of the last Triennial Review or if its application for a CE, its EA, or its EIS includes an environmental justice analysis.

If the grantee's environmental justice analysis does not include the information recommended in Chapter IV section 8a of FTA C 4702.1A, the reviewers should that the grantee consider including this information in the environmental justice analyses of future submissions.

The grantee is deficient if an application for a CE, an EA, or an EIS does not include an environmental justice analysis.

SUGGESTED CORRECTIVE ACTION

The grantee should submit to the CRO a document that describes how it will incorporate environmental justice considerations into future NEPA documents.

11. *If the grantee operates in a service area of 200,000 or more in population, has it collected and analyzed demographic data showing the extent to which members of minority groups are beneficiaries of programs receiving FTA financial assistance?*

EXPLANATION

The U.S. DOT Regulations at 49 CFR §21.9(b) state that, "...In general, recipients should have available for the Secretary racial and ethnic data showing the extent to which members of minority groups are beneficiaries of programs receiving Federal financial assistance."

Consistent with this provision, Chapter V section 1 of FTA C 4702.1A requires recipients to which this Chapter applies to collect and analyze racial and ethnic data showing the extent to which members of minority groups are beneficiaries of programs receiving Federal financial assistance. This provision of the circular recommends that recipients fulfill this requirement either by preparing demographic and service profile maps and charts (described in Chapter V section 1a), by collecting demographic information as part of agency ridership surveys (described in Chapter V section 1b), or by developing their own procedures to collect and analyze demographic data on their beneficiaries (described in Chapter V section 1c).

REASON FOR THE QUESTION

[49 CFR 21.9\(b\)](#)

[FTA C 4702.1A](#), Ch. V, Section 1

SOURCES OF INFORMATION

Grantee staff should be able to provide the reviewer either with copies of demographic maps and overlays that provide the information as recommended in Chapter V section 1a of FTA C 4702.1A, or with the results of customer surveys that provide information as recommended in Chapter V section 1b of FTA C 4702.1A. If the recipient has elected to develop its own procedure to collect and analyze demographic data of their beneficiaries, this information should be presented to the reviewer.

DETERMINATION

The grantee is not deficient if it provides the reviewer with either maps and overlays, results of customer surveys, or a locally developed method that is consistent with the provisions in Chapter V section 1 of FTA C 4702.1A.

The grantee is deficient if it cannot provide maps and overlays or the results of customer surveys, or a locally developed method. The grantee is also deficient if it provides the reviewer with maps and overlays that were prepared prior to the date of the last triennial review and the grantee has subsequently made changes to the location of its transit routes and facilities. The grantee is also deficient if it provides the results of passenger survey information and the surveys do not include demographic data on the passengers.

SUGGESTED CORRECTIVE ACTION

The grantee should submit to the CRO a document that describes its strategy and timeline for collecting demographic information, consistent with one of the options for collecting this information in Chapter V section 1 of FTA C 4702.1A. Once the grantee has collected this information, it should provide a copy of the results to the CRO.

- 12. *If the grantee operates in a service area of 200,000 or more in population, has it set system-wide service standards and system-wide service policies?***

EXPLANATION

The U.S. DOT Title VI Regulations at 49 CFR §21.5(b)(7) state that, "...even in the absence of prior discriminatory practice or usage, a recipient, in administering a program or activity to which this part applies, is expected to take affirmative action to assure that no person is excluded from participation in or denied the benefits of the program or activity on the grounds of race, color, or national origin."

The appendix to [49 CFR 21](#) provides examples, without being exhaustive, that illustrate the application of the nondiscrimination provisions of this part under the programs of certain U.S. DOT operating administration. Part (a)(3)(iii) of the appendix states that, "no person or group of persons shall be discriminated against with regard to the routing, scheduling, or quality of service of transportation service furnished as part of the project on the basis of race, color, or national origin. Frequency of service, age and quality of vehicles assigned to routes, quality of stations serving different routes, and location of routes may not be determined on the basis of race, color, or national origin."

Consistent with these provisions, FTA requires grantees serving geographic areas with populations of 200,000 or more to set system-wide standards and policies necessary to guard against discriminatory service design or operations decisions (see Chapter V section 2 and section 3 of FTA C 4702.1A).

Chapter V section 2a of FTA C 4702.1A lists some examples of service standards a grantee can adopt. These standards are: (1) vehicle load; (2) vehicle headway; (3) on-time performance; (4) distribution of transit amenities; and (5) service availability. Recipients are free to adopt additional service standards or other standards in lieu of the ones cited in this provision.

Chapter V section 3a of FTA C 4702.1A lists examples of system-wide service policies a grantee can adopt. (Service policies differ from service standards in that they are not necessarily based on a

quantitative threshold). These policies are: (1) vehicle assignment; and (2) transit security. Recipients are free to adopt additional service policies or other policies in lieu of those cited in this provision.

REASON FOR THE QUESTION

49 CFR 21.9(b); Appendix C

FTA C 4702.1A, Chapter V, Sections 2 and 3

SOURCES OF INFORMATION

Grantee staff should be able to provide reviewers with a list of service standards and service policies that the agency has adopted and a description of how the agency defines its standards and policies.

DETERMINATION

The grantee is not deficient if it can document that it has adopted the service standards and policies recommended in FTA C 4702.1A Chapters 2a and 2b, and/or that it has adopted other system-wide service standards and policies. The grantee is deficient if it cannot document that it has either adopted any of the service standards and policies recommended in FTA C 4702.1A Chapters 2a and 2b, or adopted other system-wide service standards and policies.

SUGGESTED CORRECTIVE ACTION

The grantee should submit to the CRO a document that describes its plans for adopting system-wide service standards and policies and provides a timeline for adopting these standards and policies. Once these standards and policies have been adopted, the grantee should forward a copy of the standards and policies to the CRO.

- 13.** *If the grantee operates in a service area of 200,000 or more in population, has it monitored the service it provides to identify any disparities in the level and quality of service provided to different demographic groups? Has the grantee taken corrective action if it determined that disparities exist?*

EXPLANATION

The U.S. DOT Title VI Regulations at 49 CFR §21.5(b)(7) state that, "...even in the absence of prior discriminatory practice or usage, a recipient, in administering a program or activity to which this part applies, is expected to take affirmative action to assure that no person is excluded from participation in or denied the benefits of the program or activity on the grounds of race, color, or national origin."

The appendix to 49 CFR 21 provides examples, without being exhaustive, that illustrate the application of the nondiscrimination provisions of this part under the programs of certain U.S. DOT operating

administration. Part (a)(3)(iii) of the appendix states that, "no person or group of persons shall be discriminated against with regard to the routing, scheduling, or quality of service of transportation service furnished as part of the project on the basis of race, color, or national origin. Frequency of service, age and quality of vehicles assigned to routes, quality of stations serving different routes, and location of routes may not be determined on the basis of race, color, or national origin."

Consistent with these provisions, Chapter V section 5 of FTA C 4702.1A states that, "recipients to which this Chapter applies shall monitor the transit service provided throughout the recipient's service area. Periodic service monitoring activities shall be undertaken to compare the level and quality of service provided to predominantly minority areas with service provided in other areas to ensure that the end result of policies and decision making is equitable service. Monitoring shall be conducted at minimum once every three years. If a recipient's monitoring determines that prior decisions have resulted in disparate impacts, agencies shall take corrective action to remedy the disparities."

Grantees must implement one of four service monitoring procedures identified in Chapter V sections 5a, 5b, 5c, and 5d of FTA C 4702.1A, as follows:

- a. Option A: Level of Service Methodology, based on a sample of bus routes and (if applicable) fixed guideway routes that provide service to a demographic cross-section of grantee's population.
- b. Option B: Quality of Service Methodology, based on an appropriate number of Census tracts or traffic analysis zones that represent a cross-section of grantees population.
- c. Option C: Title VI Analysis of Customer Surveys, based on most recent passenger survey, grantees should compare the responses from individuals who identified themselves as members of minority groups and/or in low-income brackets, and the responses of those who identified themselves white and/or in middle and upper-income brackets.
- d. Option D: Locally Developed Alternative, grantees have the option of modifying the above options or developing their own procedures to monitor their transit service to ensure compliance with Title VI.

REASON FOR THE QUESTION

49 CFR 21.9(b) and Appendix C

FTA C 4702.1A, Ch. V, Section 5

SOURCES OF INFORMATION

Grantee staff should be able to provide the reviewer with its service monitoring procedures to ensure that the grantees service is equitable and results of any monitoring of its transit service conducted since the last triennial review.

DETERMINATION

The grantee is not deficient if it has developed procedures for monitoring service and conducted service monitoring consistent with the procedures listed in either section 5a, 5b, 5c, or 5d of FTA C 4702.1A Chapter V.

The grantee is deficient if it has no procedures for monitoring service and/or conducted service monitoring but the methodology used in the monitoring did not include a demographic analysis that compared the level and quality of service provided to different demographic groups, including minority persons. The grantee is also deficient if its monitoring identified disparities in the level and quality of service provided to minority and non-minority users but the grantee did not take corrective action.

SUGGESTED CORRECTIVE ACTION

The grantee should submit to the CRO a document that describes its plans for conducting service monitoring, consistent with the procedures in FTA C 4702.1A, Chapter V section 5 as well as a timeline for conducting this monitoring. Once the monitoring has been conducted, the grantee should provide a copy of the results to the CRO.

14. *If the grantee operates in a service area of 200,000 or more in population, has it conducted an internal evaluation of major service changes or fare changes that have occurred since the last Triennial Review to determine whether proposed changes would have a discriminatory impact?*

EXPLANATION

The appendix to 49 CFR 21 provides examples, without being exhaustive, that illustrate the application of the nondiscrimination provisions of this part under the programs of certain U.S. DOT operating administrations. Part (a)(3)(iii) of the appendix states that, “no person or group of persons shall be discriminated against with regard to the routing, scheduling, or quality of transportation service furnished as part of the project on the basis of race, color, or national origin. Frequency of service, age and quality of vehicles assigned to routes, quality of stations serving different routes, and location of routes may not be determined on the basis of race, color, or national origin.”

The U.S. DOT Order on Environmental Justice states that, “Planning and programming activities that have the potential to have a disproportionately high and adverse effect on human health or the environment shall include explicit consideration of the effects on minority populations and low-income populations.” (DOT Order 5610.2 section 5b(1)).

This order also states that, “[Title VI] requirements will be administered so as to identify, early in the development of the program, policy or activity, the risk of discrimination so that positive corrective action can be taken.” (DOT Order 5610.2 section 7b).

The U.S. DOT Order on environmental justice defines “adverse effects” to include social and economic effects, such as, “isolation, exclusion or separation of minority or low-income individuals within a given community or from the broader community; and the denial of, reduction in, or significant delay in the receipt of, benefits of DOT programs, policies, or activities.” (DOT Order 5610.2, Appendix 1f). Under this definition, service and fare changes could have adverse effects if the service reductions result in isolating minority or low-income community. Likewise, if a fare increase means that low-income persons would be unable to afford to continue to take all or a portion of their trips on public transit, they may experience isolation from the broader community, within their own community.

Consistent with these provisions, Chapter V section 4 of FTA C 4702.1A states that, “recipients to which this chapter applies shall evaluate significant system-wide service and fare changes and proposed improvements at the planning and programming stages to determine whether those changes have a discriminatory impact. For service changes, this requirement applies to “major service changes” only. The recipient should have established guidelines or thresholds for what it considers a “major service change” to be. Often, this is defined as a numerical standard, such as a change that affects 25 percent of service hours of a route.” Chapter V section 4a recommends specific procedures for conducting an analysis of service changes and fare changes. Chapter V section 4b states that grantees can conduct an analysis of service and fare changes using a locally modified version of the procedures at Chapter V section 4a or a locally-developed set of procedures.

Note to Reviewers: this requirement is different from the requirement in the Public Comment for Fare Increases and Service Reductions section of the Triennial Review Contractors’ Guide. (See *Triennial Review Section 13, Public Comment*) The Public Comment section is guided by the requirement for a *public comment process* before *raising* a fare or carrying out a major *reduction* of transportation. For purposes of Title VI, grantees to which this requirement applies need to perform an internal

equity evaluation (not public comment process) for “major service changes” (both increases and reductions), as locally defined, and fare changes.

REASON FOR THE QUESTION

[49 CFR 21.5\(b\)\(3\)](#); (b)(7); and Appendix C

[U.S. DOT Order 5610.2](#)

[FTA C 4702.1A](#), Ch. V, Section 4

SOURCES OF INFORMATION

Grantee staff should be able to provide the reviewers with a list of service and fare changes that have occurred since the last review and a description of the nature of the changes. Grantees should be able to provide the reviewer with a description of the methodology used to determine the impact of the service and fare change. Grantee staff should also be able to provide the reviewers with its threshold for a “major service change” under Title VI.

DETERMINATION

The grantee is not deficient if it established a methodology for conducting an analysis of the effects of major service changes (as locally defined) and/or fare changes, and has conducted an analysis using the identified methodology. The methodology should be consistent with the procedures recommended in Chapter V section 4a and 4b. The grantee is also not deficient if it has not conducted an analysis of any service changes that do not meet the grantee’s threshold for a “major service change.”

The grantee is deficient if it has not established a methodology and/or conducted an analysis of the effects of one or more major service changes and/or fare changes that have occurred since the last triennial review. The grantee is also deficient if it has not established a methodology and/or conducted an analysis of any service changes, under the pretense that none of the changes constituted “major service changes.

SUGGESTED CORRECTIVE ACTION

The grantee should submit to the CRO a document that describes a methodology to analyze the impacts of future fare and major service changes. The grantee shall also submit to the CRO its policies for what it constitutes a major service change to be, for the purposes of this question.